

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: MUKAI=3

In re Application of:) Confirmation No.: 3080
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Kazuhisa MUKAI et al) Art Unit: 1652
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I.A. Filing Date: 08/26/2004) Examiner: G. Raghu
371(c) Date: February 28, 2006)) May 16, 2007
U.S. Appln. No.: 10/569,959))
))
For: CYCLIC MALTOSYLMALTOSE))

REPLY TO RESTRICTION REQUIREMENT OFFICE ACTION

Customer Service Window, Mail Stop Amendment
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicants are receipt of the Office Action mailed April 16, 2007, primarily in the nature of a restriction requirement purportedly on the basis of lack of unity of invention. Applicants reply below.

Acknowledgement by the PTO of the receipt of applicants' papers filed under Section 119 is noted.

Restriction has been required among what the PTO deems to be five (5) patentably distinct inventions. As applicants must make an election, even though the requirement

is traversed, applicants hereby respectfully and provisionally elect Group I, directed to a cyclic maltosylmaltose, and presently said to comprise only claims 1, 25, 36 and 37, with traverse and without prejudice.

The holding of lack of unity of invention is based on an article by Aga et al, reference U, hereinafter "Aga", it being the position of the PTO that Aga destroys unity of invention because it anticipates the only special technical feature which is common among the three groups, i.e. it anticipates claims 1, 25, 36 and 37. Applicants respectfully disagree.

It should be noted that the cyclic tetrasaccharide (CTS) disclosed in Aga is represented by the formula $\text{cyclo}\{>6\}-\alpha\text{-D-Glcp-}(1\rightarrow 3)-\alpha\text{-D-Glcp-}(1\rightarrow 6)-\alpha\text{-D-Glcp-}(1\rightarrow 3)-\alpha\text{-D-Glcp-}(1\rightarrow\}$ as shown in the abstract, i.e. the CTS disclosed in Aga consists of α -1,3 and α -1,6 glucosidic linkages.

Contrary to Aga, the cyclic maltosylmaltose of the claimed invention is represented by the following formula as defined in claim 1:

$\text{Cyclo}\{>6\}-\alpha\text{-D-Glcp-}(1\rightarrow 4)-\alpha\text{-D-Glcp-}(1\rightarrow 6)-\alpha\text{-D-Glcp-}(1\rightarrow 4)-\alpha\text{-D-Glcp-}(1\rightarrow\}$

As evident from the above formula, the cyclic maltosylmaltose of the claimed invention consists of α -1,4 and α -1,6 glucosidic linkages, and comprises no α -1,3 glucosidic linkage.

Accordingly, Aga does not disclose the cyclic maltosylmaltose of claim 1, and therefore does not anticipate any of claims 1, 25, 36 and 37.

It is therefore respectfully submitted that Groups I-V share the same special technical feature, i.e. a cyclic maltosylmaltose of claim 1, and are so linked as to form a single inventive concept.

Reconsideration and withdrawal of the restriction requirement is respectfully solicited.

Applicants now respectfully await the results of a first examination on the merits.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By



Sheridan Neimark
Sheridan Neimark
Registration No. 20,520

SN:kg
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
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